

REMARKS

Claims 51-63 are pending in the present application. Claims 51, 42, and 57 have been amended herein. No claims have been added or cancelled hereby. Applicant acknowledges and appreciates the Examiner's continuing efforts and her careful analysis of the claims and the cited references provided in the Office Action. The remarks below support applicant's assertion that these claims are statutory and distinguish over the prior art, and are therefore in condition for allowance.

Applicant requests that the fees associated with the Appeal filed May 4, 2007, continue to be retained by the Office until further notice in the event that an appeal in this case is reinitiated.

35 U.S.C. § 103(a)

Claims 51-63 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,369,840 (Barnett) in view of U.S. Patent 6,101,510 (Stone). In addition to those comments made in applicant's previous response in this case, which are incorporated herein by reference, applicant asserts that the cited combination of references fails to teach or suggest instructions which would be operable on Internet content of a type which is encoded and formatted for display by a web browser program and which cause that content to be displayed "independent of web browser functionality" (forming a portion of all claims, as amended herein). While a similar point, in terms of a web browser program, has been previously and extensively argued, applicant has amended the claims herein to make clear that a fundamental limitations of the claims is not only the absence of a web browser program but the actual absence of web browser functionality – whether in the form of a browser program or embedded in some other

form of program – which forms a fundamental and important limitation distinguishing the prior art.

Initially, applicant reiterates that Barnett merely makes passing mention that embodiments operating without use of a browser are possible. There is nothing in Barnett which provides to one skilled in the art any additional information to assist that person in realizing such an alternate embodiment. As such, there is insufficient disclosure provided to one skilled in the art such that the claimed invention could be considered known or available. Reading & Bates Constr. Co. v. Baker Energy Resources Corp., (1984, CA) 748 F2d 645, 223 USPQ 1168.

In response to this argument made in applicant's prior response, it is asserted in the Office Action that applicant is relying on limitations not found in the claims. (Office Action, page 15, item A.) Applicant respectfully disagrees. For example, the limitations in question, present in the claims, are:

instructions usable by the computing device to present a frame, with
associated controls, specifically designed to display therein said Internet
content independent of web browser functionality;

and

instructions usable by the computing device to present said Internet content
independent of web browser functionality

(Claim 51, lines 6-10, as amended; see also claim 57, lines 10-20, as amended). The limitation to which applicant refers, and which is not present in Barnett are these instructions in the server

system. There is simply not enough provided by Barnett to have permitted one of ordinary skill in the art to arrive at such instructions without reference to the teachings of the present application at the time of its filing.

The Examiner has added the teachings of the Stone reference in support of the assertion that, for example, “instructions usable by the computing device to present said Internet content independent of a web browser program” was known – that is, that web browser functionality, provided by a non-web browser program was known. This point is well taken by applicant, and accordingly applicant has amended the claims herein to more particularly point out and distinctly claim the subject matter which applicant regards as the invention. Namely, that the instructions “present said Internet content independent of web browser functionality.” This is distinct from Stone, in that the sections of Stone cited in the Office Action teach adding browser functionality to non-browser programs. That is, by definition Stone seeks to make browser functionality available. This is not only contrary to the express limitations of the current claims, it teaches away from the limitation of presenting internet content independent of web browser functionality.

Applicant argues that the lack of teaching of this feature in the claims as they now stand means that those claims are not prima facie obvious in light of the cited references. In re Royka, 490 F2d 981, 180 USPQ 580 (CCPA 1974).” M.P.E.P. § 2143.03. Accord. M.P.E.P. § 706.02(j). Barnett and Stone, taken alone or in combination, fail to teach or suggest instructions for presenting, independent of browser functionality, Internet content of a type which is typically displayed by a web browser program. Consequently, claim 51 and claims 52-56 which depend directly or indirectly from claim 51, as well as claim 57 and claims 58-63 which depend directly

or indirectly from claims 57, are not obvious from the cited references. Therefore, applicant respectfully requests that the rejection of claims 51-63 be reconsidered and withdrawn.

Importantly, while applicant has focused on certain limitations of claims 51 and 57, there are additional limitations present in those claim as well as the claims depending therefrom, which further distinguish those claims from the cited references. Therefore, the fact that those additional limitations are not specifically discussed herein is not to be read as implying that those discussed herein are the exclusive set of such differentiating limitations. Rather, applicant has selected a particular differentiating limitation and limited the discussion thereto in the interest of brevity, and reserves the opportunity to discuss any additional distinguishing limitations further in subsequent correspondence regarding this case, if necessary.

Furthermore, each of the dependent claims in the present application provide their own additional limitations which may form the basis for distinguishing the reference, although such limitations are not explicitly argued herein. Thus, applicant reserves the right to argue the differences between any and all specific dependent claim limitations and the cited references for a later date, if necessary.

Conclusion

For the foregoing reasons, the present application is thought to be clearly in condition for allowance. Accordingly, favorable reconsideration and issuance of a formal Notice of Allowance for this application in light of the amendments and remarks provided above is respectfully requested.

By action taken here, Applicant in no way intends to or causes any surrender of any subject matter or range of equivalents beyond that strictly required to patentably distinguish the claimed invention as a whole over the prior art. Applicant expressly reserves without dedication all such subject matter and equivalents that may fall in the range between Applicant's literal claim recitations and combinations taught or suggested by the prior art.

If the Examiner believes that a telephone conference would expedite prosecution and allowance of this application, please telephone the undersigned at 650-941-4470.

Respectfully submitted,

/Jonathan A. Small/

309 Second St., Suite 8
Los Altos, CA 94022

Date: **May 20, 2009**

Jonathan A. Small
Attorney for Applicant(s)
Registration No. 32,631

Telephone: 650-941-4470